



House of Representatives

General Assembly

File No. 538

February Session, 2012

Substitute House Bill No. 5234

House of Representatives, April 19, 2012

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING THE WILFUL FAILURE OF AN EMPLOYER
TO DECLARE THE PAYMENT OF WAGES ON PAYROLL RECORDS
FOR UNEMPLOYMENT COMPENSATION PURPOSES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (e) of section 31-273 of the 2012 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective January 1, 2013*):

4 (e) If the administrator determines that any person, firm or
5 corporation has wilfully failed to declare the payment of wages on
6 payroll records, the administrator may impose a penalty of [ten] fifteen
7 per cent of the total contributions [past] due to the administrator
8 during the entire period the person, firm or corporation wilfully failed
9 to declare the payment of wages on payroll records, as determined
10 pursuant to section 31-270. Such penalty shall be in addition to any
11 other applicable penalty and interest under section 31-266. In addition,
12 the administrator may require the person, firm or corporation to make
13 contributions at the maximum rate provided in section 31-225a for a

14 period of one year following the determination by the administrator
15 concerning the wilful nondeclaration. If the person, firm or corporation
16 is paying or should have been paying, the maximum rate at the time of
17 the determination, the administrator may require that such maximum
18 rate continue for a period of three years following the determination.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2013	31-273(e)

LAB *Joint Favorable C/R*

JUD

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Labor Dept.	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill increases the penalty for failing to declare payment of wages on payroll records from 10% of total contributions due to 15%. This will result in a minimal revenue increase, based on the number of fines levied.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5234*****AN ACT CONCERNING THE WILFUL FAILURE OF AN EMPLOYER TO DECLARE THE PAYMENT OF WAGES ON PAYROLL RECORDS FOR UNEMPLOYMENT COMPENSATION PURPOSES.*****SUMMARY:**

This bill increases the penalty on employers who wilfully fail to declare payment of wages in order to avoid paying unemployment taxes or benefits. The bill permits a penalty of 15%, rather than the 10% under current law, of the total contributions due to the Labor Department under state unemployment law.

Under current law, the penalty applies only to the past due contributions. The bill specifies the penalty relates to the contributions due during the entire period the employer willfully failed to declare the wages. It is unclear if the penalty is based on only the unpaid contributions or on all contributions due (paid and unpaid) during the nonpayment period.

EFFECTIVE DATE: July 1, 2013

BACKGROUND***Legislative History***

The Labor and Public Employees Committee referred the bill to the Judiciary Committee, which favorably reported out substitute language. The substitute deleted sections that would have made knowingly (1) employing a person without declaring his or her pay or (2) making a false statement in order to avoid payment under unemployment law, which are misdemeanors, class D felonies.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Change of Reference

Yea 6 Nay 5 (03/15/2012)

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/02/2012)